

which authorized the development of the service, or expenditures in preparation for such offering or development (or has otherwise made a finding that such development or expenditure is needed), and (ii) when the offering of this new institutional health service will be consistent with the basic objectives, time schedules, and plans of the previously approved application: *Provided*, That the State Agency may impose a limitation on the duration of the certificate of need which shall expire at the end of such time unless the health service is offered prior thereto, or (2) solely because there is a health maintenance organization of the same type, as specified in section 1310(b) of the Act, in the same area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, State health plan, or State medical facilities plan.

(b) In the case of any new institutional health service proposed to be provided by or through a health maintenance organization for which assistance may be provided under Title XIII of the Act, a State Agency shall not deny a certificate of need with respect to the service.

(1) Unless the State Agency determines that the Service is:

(i) Not needed by the enrolled or reasonably anticipated new members of the health maintenance organization or proposed health maintenance organization, or

(ii) Available from non-HMO providers in a reasonable and cost-effective manner which is consistent with the basic method of operation of the health maintenance organization, in accordance with § 123.409(a)(1)(ii), or

(2) Unless the State Agency determines that the service is not needed under criteria based on factors which the Secretary has approved in accordance with § 123.409(c).

(c) In the case of a new institutional health service which is proposed to be provided by or through a health maintenance organization for which assistance may be provided under Title XIII of the Act and which consists of (or includes) the construction, development or establishment of a new inpatient health care facility, the State Agency shall deny a certificate of need for the service if, in addition to making one of the determinations set forth in paragraph (b) of this section, it determines that utilization of the facility by members of the applicant will not account for at least 75 percent of the projected annual inpatient days of the proposed facility.

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## [6820-35]

### LEGAL SERVICES CORPORATION

[45 CFR Parts 1608, 1612, 1613, 1614, 1620]

### AMENDMENTS TO THE REGULATIONS

AGENCY: Legal Services Corporation.

ACTION: Proposed Regulation.

**SUMMARY:** The Legal Services Corporation Act Amendments of 1977, Pub. L. 95-222 (December 28, 1977), made necessary several changes to the Corporation's Regulations. The Corporation is publishing for notice and comment proposed changes to Part 1608, concerning political activities of employees; Part 1612, concerning prohibited lobbying activities and enforcement of the prohibitions; Part 1613, concerning criminal representation; Part 1614, concerning juvenile representation; and, Part 1620, concerning program priorities. The specific changes and the reasons for them are set out in the Supplementary Information. Where less than a full Section is to be changed, the affected language has been underlined.

**DATES:** Comments must be received on or before April 17, 1978.

**ADDRESS:** Legal Services Corporation, 733 15th Street NW., Suite 700, Washington, D.C. 20005.

### FOR FURTHER INFORMATION CONTACT:

Stephen S. Walters, 202-376-5113.

**EDITORIAL NOTE:**—For the Supplementary Information, see the "comments" at the end of each section.

### PART 1608—PROHIBITED POLITICAL ACTIVITIES

§ 1608.5 Prohibitions Applicable to Corporation Employees and to Staff Attorneys. (Existing).

While employed under the Act, no Corporation employee and no staff attorney shall, at any time,

(a) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office, whether partisan or nonpartisan;

(b) directly or indirectly coerce, attempt to coerce, command or advise an employee of the Corporation or of any recipient to pay, lend, or contribute anything of value to a political party, or committee, organization, agency or person for political purposes; and

(c) no staff attorney shall be a candidate for elective public office, whether partisan or nonpartisan; nor shall a Corporation employee be a candidate for partisan elective public office.

Section 1608.5. Subsection (c) of this Section should be amended to read as follows: "(c) be a candidate for partisan elective public office."

§ 1608.6 Prohibitions Applicable to Attorneys and to Staff Attorneys. (Existing).

(a) While engaged in legal assistance activities supported under the Act, no attorney shall engage in

(1) Any political activity.

(2) Any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or

(3) Any voter registration activity.

(b) While employed under the Act, no staff attorney shall engage in the activities prohibited by paragraphs (a)(2) or (a)(3) of this section at any time.

Section 1608.6. Paragraph (b) of this Section should be deleted.

Comment. Section 7(a) of the Amendment makes the present provisions of the Hatch Act relating to the political activities of State and local employees applicable to staff attorneys as well as Corporation employees. Other, more restrictive, provisions of the Act affecting the political activities of staff attorneys on their own time were repealed. The proposed revisions of Section 1608 reflect these changes.

### PART 1612—RESTRICTIONS ON CERTAIN ACTIVITIES

§ 1612.4 Legislative and administrative representation. (Existing.)

(a) No funds made available to a recipient by the Corporation shall be used, directly or indirectly, to support activities intended to influence the issuance, amendment, or revocation of any executive or administrative order or regulation of a Federal, State, or local agency, or to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body; except that

(1) An employee may engage in such activities in response to a request from a governmental agency or a legislative body, committee, or member made to the employee or to a recipient; and

(2) An employee may engage in such activities on behalf of an eligible client of a recipient, if the client may be affected by a particular legislative or administrative measure; but no employee shall

(i) Solicit a client for the purpose of making such representation possible, or

(ii) Solicit a group of clients for the purpose of representing it with respect to matters of general concern to a broad class of persons as distinguished from the interests of a particular client.

Section 1612.4. The semicolon at the end of the first full paragraph in paragraph (a) should be deleted and the following inserted: "or State proposals by initiative petition."

The semicolon and everything following it should be deleted from § 1612.4(a)(2), and the following added: "but no employee shall solicit a client in violation of professional responsibilities for the purpose of making such representation possible; and,

(3) An employee may engage in such activities if a governmental agency, legislative body, committee, or member thereof is considering a measure directly affecting the activities